

Audit



Report

OFFICE OF THE INSPECTOR GENERAL

**IMPACT OF THE NATIONAL ENVIRONMENTAL
POLICY ACT ON BASE CLOSURES**

Report No. 97-089

February 7, 1997

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Acronyms

BRAC
LRA
NEPA

Base Realignment and Closure
Local Redevelopment Authority
National Environmental Policy Act



**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884**



February 7, 1997

**MEMORANDUM FOR DEPUTY UNDER SECRETARY OF DEFENSE
(ENVIRONMENTAL SECURITY)**

**SUBJECT: Evaluation Report on the Impact of the National Environmental Policy Act
on Base Closures (Report No. 97-089)**

We are providing this evaluation report for review and comment. This report is the second of two evaluation reports on the subject. Management comments were not received and thus are still needed.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. Because the Deputy Under Secretary of Defense (Environmental Security) did not comment on a draft of this report, we request the Deputy Under Secretary provide comments on the final report by April 7, 1997.

Questions on the evaluation should be directed to Mr. William C. Gallagher, Evaluation Program Director, at (703) 604-9270 (DSN 664-9270) or Mr. Michael R. Herbaugh, Evaluation Project Manager, at (703) 604-9294 (DSN 664-9294). If management requests, we will provide a formal briefing on the evaluation results. See Appendix C for the report distribution. The evaluation team members are listed inside the back cover.

David K. Steensma

David K. Steensma
Deputy Assistant Inspector General
for Auditing

Office of the Inspector General, DoD

Report No. 97-089
(Project No. 6CB-5045.01)

February 7, 1997

Impact of the National Environmental Policy Act on Base Closures

Executive Summary

Introduction. This report is a follow-on to the Inspector General, DoD, Report No. 97-061, "Impact of the National Environmental Policy Act on Base Closures." That report discusses issues concerning the National Environmental Policy Act and the Defense base realignment and closure policies in the Military Departments.

The Office of the Deputy Under Secretary of Defense (Environmental Security) asked us to perform an evaluation to determine whether provisions of the National Environmental Policy Act are affecting the Defense base realignment and closure program. Officials at the Office of the Deputy Under Secretary of Defense (Environmental Security) requested a briefing on our findings because they needed the information to decide whether the National Environmental Policy Act, the Defense Base Closure and Realignment Act of 1990, or other legislation associated with 1995 base closures required revision. We briefed our findings in July 1995.

This report expands on issues first reported during the July 1995 briefing concerning the effects of the National Environmental Policy Act on base closure actions and interim leases.

Evaluation Objective. The objective of the evaluation was to determine what problems exist concerning the application of the National Environmental Policy Act to the base closure process and to recommend approaches for problem resolution.

Evaluation Results. The National Environmental Policy Act as applied by DoD adds minimal value to the base realignment and closure process. Although a National Environmental Policy Act analysis is currently used to identify environmental requirements incorporated into leases and deeds, other environmental statutes and regulatory requirements already identify those requirements. Further, alternatives to environmental impact statements, relative reuse development approach, and greater delegation of signature authority for environmental documents can speed the turnover of land from base closures to local redevelopment authorities.

Summary of Recommendations. We recommend that the Deputy Under Secretary of Defense (Environmental Security) initiate a legislative change to exclude future base realignment and closure land disposal and reuse from the National Environmental Policy Act or use more environmental assessments and categorical exclusions, adopt a broader relative reuse development approach, and delegate signature authority for environmental documentation.

Management Comments and Evaluation Response. The Deputy Under Secretary of Defense (Environmental Security) did not respond to a draft of this report. Therefore, we request the Deputy Under Secretary of Defense (Environmental Security) provide comments by April 7, 1997.

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Part I - Evaluation Results

Introduction

The Office of the Deputy Under Secretary of Defense (Environmental Security) asked us to conduct an evaluation to determine whether provisions of the National Environmental Policy Act (NEPA) are adversely affecting the Defense base realignment and closure (BRAC) program. The Office of the Deputy Under Secretary of Defense (Environmental Security) needed that information to decide whether the NEPA, the Base Realignment and Closure Act of 1990, or other legislation associated with 1995 base closures needs revision. Officials from that office requested a briefing on our findings and suggestions. We presented the briefing in July 1995 to the Principal Assistant Deputy Under Secretary of Defense (Environmental Security) and staff members.

This report is the second of two reports on our evaluation of the effects of the NEPA on the BRAC program. This report updates the impact of NEPA on base closure actions and interim leases. The first evaluation report, Report No. 97-061, "Impact of the National Environmental Policy Act on Base Closures," January 9, 1997, provided an update on NEPA BRAC policies in the Military Departments.

Evaluation Background

The National Environmental Policy Act, the Base Closure and Realignment Act of 1990, and the President's Five-Part Plan are applicable to BRAC land disposal. Details concerning associated requirements and how they relate to one another are in Appendix B.

National Environmental Policy Act. United States Code, title 42, section 4321, (42 U.S.C. 4321), "National Environmental Policy Act," was signed into law on January 1, 1970. The NEPA requires Federal agencies to consider environmental impacts of proposed major Federal actions in making decisions. The law defines a specific decision making process that must be followed to determine the environmental impacts of any proposed major action. Until an agency completes its NEPA review, the agency cannot initiate work on a proposed action. Because base closures are considered major actions, NEPA documents must be prepared to address the disposal of land and facilities for installations on the base realignment and closure list. A NEPA document can be an environmental impact statement, an environmental assessment, or a categorical exclusion.

Base Closure and Realignment Acts. The "Defense Authorization and Base Closure and Realignment Act [of 1988]" and "Defense Base Closure and Realignment Act of 1990" are amendments to United States Code, title 10, section 2687 (10 U.S.C. 2687). The purpose of the acts is to provide a fair process that will result in the timely closure and realignment of military installations in the United States.

President's Five-Part Plan. President William J. Clinton announced his Five-Part Plan on July 2, 1993. That plan is designed to speed the economic recovery of BRAC communities with installations that are closing. The President pledged to give top priority to early reuse of the installations' valuable assets by local communities.

Interim Leases

Effects on Economic Development Opportunities. NEPA requirements make establishing BRAC interim leases difficult for the Military Departments because of the:

- o short-term limitations of the lease (1 to 5 years),
- o time to prepare the NEPA documents (2 to 12 months),
- o lease restrictions on altering the land or buildings,
- o 30-day kick-out clause,
- o financiers' unwillingness to fund clients seeking short-term interim leases,
- o uncertainty for interim lease renewal, and
- o concerns about installation contamination.

As a result, closing installations have lost interim leases.

Management Action. DoD initiated BRAC legislative changes in an attempt to resolve this issue. While preparing this report, we learned that representatives from the Offices of the Deputy Under Secretary of Defense (Industrial Affairs and Installations) and the Deputy Under Secretary of Defense (Environmental Security) were working with Congress to create legislation to extend the time frames for interim leases, to reduce the level of restrictions for modifications to buildings or land, and to eliminate the 30-day kick-out clause.

Congress amended 10 U.S.C. 2667(f), "Leases: non-excess property" by adding section 2833 on August 10, 1995. The additional section should:

- o allow DoD, the Military Departments, and the local redevelopment authorities (LRAs) to offer leases to prospective interim-use clients with terms long enough to warrant relocation to the closing installation;

- o insulate those lease decisions from legal challenge predicated on the claim that such a lease would prejudice the final disposal decision;

Evaluation Results

- o provide such legal protection only if activities under the lease will not significantly or irreversibly alter the environment; and

- o permit capital improvements to leased property so long as reasonable alternatives for final disposal are not precluded.

As a result of the actions described, we are not including recommendations in this report on interim leasing. We believe that the amendment should make interim leasing more attractive to potential clients and should meet the goal of the President's Five-Part Plan.

Evaluation Objective

The objective of the evaluation was to determine existing problems associated with the application of NEPA to the base closure process and to recommend approaches for problem resolution. Appendix A offers details on the evaluation scope and methodology.

Impact of the National Environmental Policy Act on Defense Base Realignment and Closure Actions

The National Environmental Policy Act as applied by DoD adds minimal value to the base realignment and closure process.

NEPA environmental impact statements for BRAC land disposal:

- o are time-consuming to prepare (average time to prepare an environmental impact statement was 29 months) and costly (average cost was \$900,000); and

- o are of limited value to the majority of the LRAs (many LRAs disregarded environmental impact statements).

Further, the NEPA analysis did not identify any covenants for deed restrictions that were not already identified by other environmental laws. Greater use of alternatives to environmental impact statements, broader use of the Army relative reuse development approach, and greater delegation of signature authority can speed turnover of that property to the LRA.

Impact of NEPA on BRAC Actions

Personnel from the Military Department BRAC management organizations, base transition coordinators, and the LRAs play a major role in the day-to-day actions relating to NEPA documentation (environmental impact statement, environmental assessment, and categorical exclusion) associated with land disposal and reuse. We obtained input from those personnel to determine whether problems existed with the overall NEPA BRAC program.

Average Time to Complete BRAC Actions. For the 1988, 1990, and 1993 BRACs, the Military Departments completed 58 environmental impact statements. For 50 of the 58 environmental impact statements, completion took more than 18 months with an overall average completion time of 29 months. As shown in Figure 1, the time to complete documentation of BRAC 1988 environmental impact statements ranged from 17 to 57 months (average of 30 months) and BRAC 1991 documents ranged from 19 to 45 months (average of 33 months). BRAC 1993 documents are ranging from 10 to 32 months (average of 24 months). The BRAC 1993 document completion times are based on completed documents because document preparations are still ongoing and are not projected for completion until May, 1998, with the longest completion time estimated to be 44 months.

Impact of the National Environmental Policy Act on Defense Base Realignment and Closure Actions

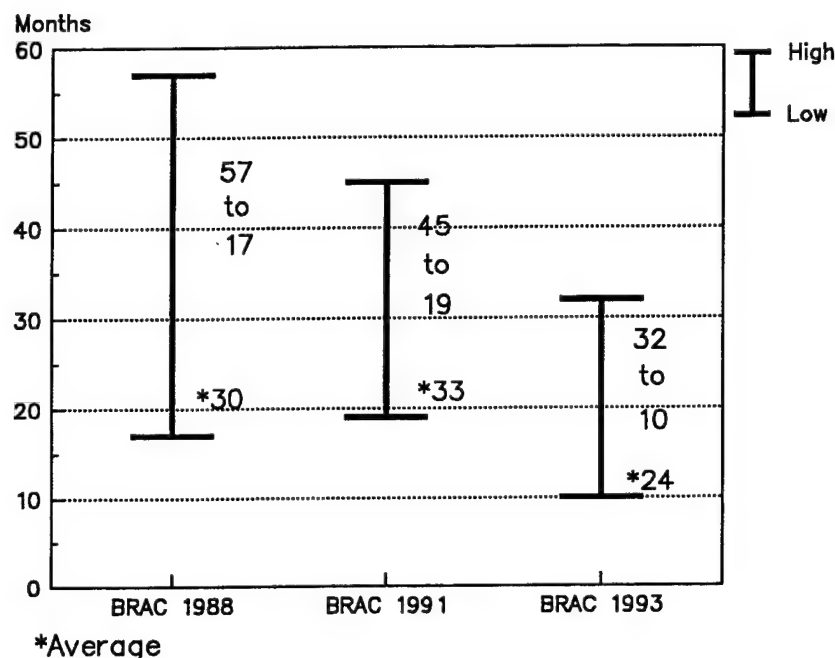


Figure 1. Completion Times for BRAC Environmental Impact Statements

The President's Five-Part plan and the 1990 BRAC law require NEPA documents to be completed within 12 months from the time that LRAs submit reuse plans. In concert with DoD staff, comprised of Military Department BRAC management organizations, base transition coordinators, and the LRAs, we determined that 18 months would be a reasonable time frame in which to complete an environmental impact statement for land disposal and reuse. The 18 months includes 6 months to start the environmental impact statement before reuse plan finalization and 12 months to finish the statement as stipulated in the BRAC law and the President's Five-Part Plan. Military Department representatives said that they encouraged BRAC installations to start the environmental impact statement a minimum of 6 months before finalization of the reuse plan. The DoD staff agreed that taking longer than 18 months to complete an environmental impact statement would indicate a problem. As Figure 1 shows, since the 1988 BRAC, the Military Departments have decreased their NEPA document completion times and are nearing the target of 18 months, resulting in a quicker turnover of BRAC land for reuse.

Cost of NEPA Environmental Impact Statements. Costs to produce the 58 environmental impact statements ranged from \$205,000 to \$2,300,000, with the average statement costing \$900,000. In addition to determining the average statement cost, we determined that no correlation existed between costs to prepare NEPA documents and the size or mission of the BRAC installations. In the absence of correlation, the averaged cost for past statements is likely to be the best estimate for projecting future costs of NEPA requirements related to BRACs.

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Costs for the preparation of disposal and reuse environmental impact statements for BRACs 1988, 1991, and 1993 total about \$60 million. A breakout of cost by Military Department and BRAC year is in Figure 2. We did not explore the reasons for the differences in cost among the Military Departments, because those reasons were beyond the scope of our review.

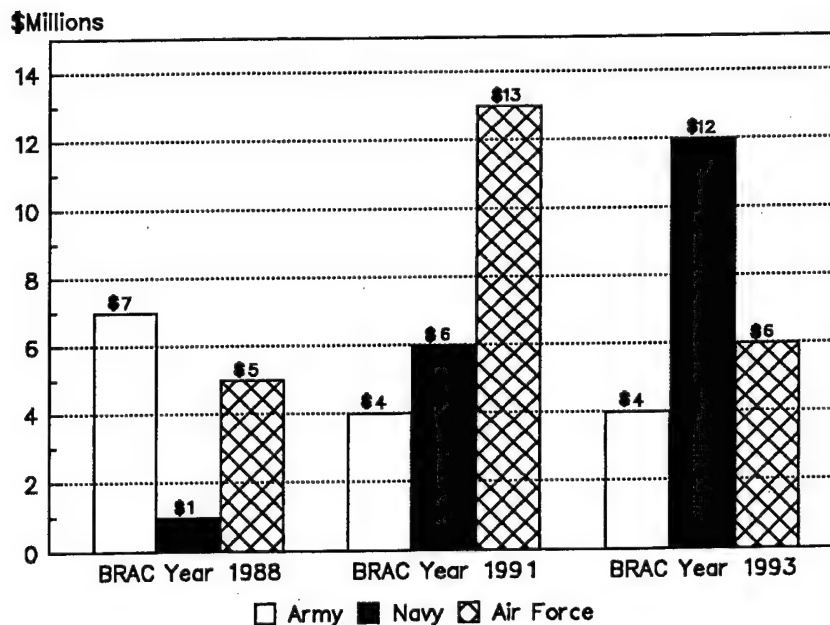


Figure 2. Military Department Cost of Disposal and Reuse Documents

Time and Cost Effects of NEPA on BRACs. For BRACs 1988, 1991, and 1993, the time and cost to prepare 58 environmental impact statements for land disposal were high, while the risk for legal challenges was low (see Figure 3). Figure 3 is a conceptual chart showing that when costs and times for environmental impact statements were high, risks associated with those environmental impact statements were low.

Impact of the National Environmental Policy Act on Defense Base Realignment and Closure Actions

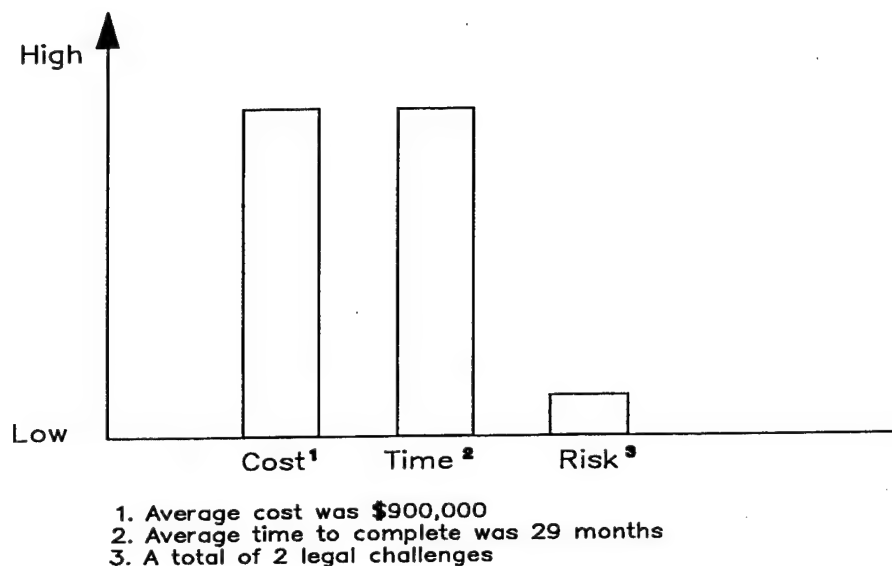


Figure 3. Conceptual Depiction for BRAC NEPA Document Cost, Time, and Risk

The average environmental impact statement took 29 months to complete at a cost of about \$900,000. However, the risk that resulted from legal challenges to those documents was low. Only two lawsuits challenged environmental impact statements for closing installations. One lawsuit was settled in favor of DoD, and the other is in the appeal process.

As previously stated, environmental impact statements have cost about \$60 million. If environmental impact statements were prepared for all 79 closure installations on the BRAC 1995 list, the estimated cost might have been an additional \$11 million. In addition, the staff hours invested to develop, review, approve, and manage the contracts for preparing BRAC 1995 environmental impact statements would increase over those of previous BRAC closures. As a result of the increase of complex environmental impact statements and personnel resources required for preparing those statements, the turnover of 1995 BRAC properties could be delayed.

Value of NEPA Analysis. Representatives from the LRAs and the Military Department BRAC management organizations and the base transition coordinators question the value of doing NEPA documents for BRAC.

Some LRA personnel disapprove of the NEPA process. Of the 29 LRAs responding to our survey, 13 LRA personnel stated that they did not modify their reuse plans based on data in the environmental impact statement. The LRAs also stated that the NEPA process did not help them develop a better reuse plan. The intent of NEPA is to encourage maximum public comment and

Impact of the National Environmental Policy Act on Defense Base Realignment and Closure Actions

participation in the environmental impact statement process. However, LRA responses indicated twice as much public participation in LRA reuse meetings as in the NEPA public comment meetings.

LRA personnel stated that NEPA does not add value to the BRAC process. Respondents to our survey stated that the NEPA requirements create roadblocks that result in delaying reuse development, such as:

- o duplicating state NEPA requirements for document preparation,
- o reiterating the reuse plan,
- o losing prospects for redevelopment, and
- o duplicating the intent of the local zoning ordinances.

The LRAs stated that the NEPA process was bureaucratic and a waste of time and money, started too late in the reuse process, and did not include dialogue with the community to develop complementary schedules.

Of the 73 Military Department BRAC management organizations surveyed, 10 personnel believed that NEPA added some value to the BRAC process. Those personnel stated that NEPA provided useful information to the LRAs for reuse planning, provided opportunities for public participation, and identified encumbrances to be included in the deed of transfer.

Information in the BRAC environmental impact statement is also available in other BRAC environmental program documents. Those other documents address natural and cultural resources and the location and extent of environmental contamination on bases. BRAC management organizations indicated that they did not address reuse in a NEPA document because the LRA, not DoD, should be making the land reuse decision. BRAC management organization personnel stated that the compulsory adoption of a reuse plan alternative as the preferred alternative in the environmental impact statement does not follow the intent of NEPA for evaluating all alternatives before making a selection. Those personnel stated that, technically, DoD has no control of reuse once DoD deeds land for that purpose. Military Departments' NEPA BRAC management officials believe that the President's Five-Part Plan, and the DoD requirements to use the LRA reuse plan as the basis for the NEPA analysis, limit the selected alternative. The BRAC management officials believe that they are developing NEPA documents around a predetermined reuse decision instead of looking at alternatives for reuse and selecting an alternative based on the environmental effects.

Of the 59 base transition coordinators that we surveyed, 28 questioned the value of doing environmental impact statements and questioned the time and money that the Military Departments spent to perform an environmental impact statement.

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NEPA Effects on Deed and Lease Restrictions. Not one of the deeds or long-term leases contained restrictions based on NEPA analyses. BRAC actions resulted in 24 deed transfers and 27 long-term leases. The value of NEPA in the BRAC process is questionable because of the lack of deed and lease mitigations and restrictions identified during the NEPA analysis for BRAC land disposal actions. In the BRAC process, NEPA has not once identified deed or lease restrictions or mitigation requirements that other environmental and natural resource laws have not already identified. The NEPA process encourages Federal Government entities to take actions to protect, restore, and enhance the environment. However, environmental compliance and natural resource statutes are the basis other than NEPA for all the deed and lease restrictions that we identified. Therefore, BRAC NEPA documents are not identifying environmental problems that require mitigations that should be included in leases or deeds as restrictions.

NEPA Documents Affect BRAC Land Reuse

Environmental impact statements for BRACs (1988, 1991, and 1993) have taken an average of 29 months to complete. The President's Five-Part Plan and the BRAC 1990 law require NEPA actions to be completed within 12 months after the LRA submit a reuse plan. As a result of waiting for the completed LRA reuse plan, the environmental impact statements are not only expensive and time-consuming, but act as a delay to reuse. Numerous environmental statutes already in place address environmental problems that may be uncovered by NEPA studies.

Preparing documents that are less costly and less time-consuming and that accelerate reuse would be beneficial to the BRAC process. We believe that Figure 4 conceptually depicts the direction the Military Departments should take in developing NEPA documents for future BRAC installations. However, a higher level of risk in the form of legal challenges and court actions could increase with the reduction in cost and time for preparation of NEPA documents.

Impact of the National Environmental Policy Act on Defense Base Realignment and Closure Actions

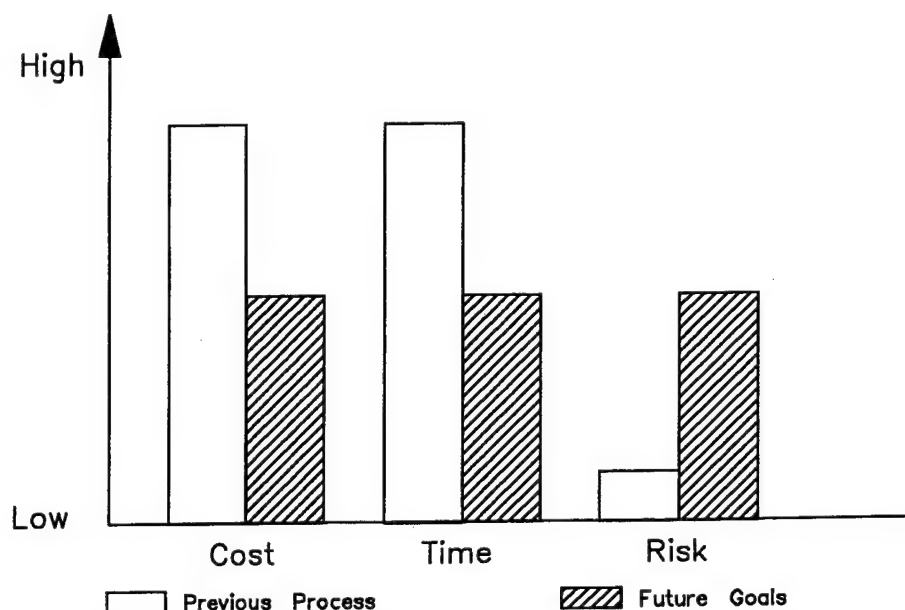


Figure 4. Future Goals for NEPA Documents

NEPA Documents in Support of the BRAC Land Reuse Process. The purpose in doing NEPA documents for land disposal is that land disposal is considered a major action under NEPA. The LRAs indicated that they are not using the information from NEPA analyses to execute their reuse plans. The LRAs stated that NEPA document preparation only lengthens the time frame before the land is turned over to the LRA for redevelopment. The LRAs questioned the value of doing NEPA documents because of the low levels of public participation in the process and because some states have statutes that mirror NEPA requirements.

Delays in NEPA Document Preparation. The reuse plans the LRAs developed are the basis for the NEPA alternatives section of the disposal and reuse environmental impact statement. Delays or modifications in the preparation of the reuse plan can delay environmental impact statement completion. To reduce possible delays, the 1990 BRAC law and the President's Five-Part Plan require completion of the NEPA document within 12 months from the date that the LRA submits its final reuse plan.

Of the 58 disposal and reuse environmental impact statements completed on 50 environmental impact statement documents, 50 documents took longer than 18 months to complete. Delays in the completion of the environmental impact statements resulted directly from the delays in attaining the LRA reuse plan. Reasons for the delays in attaining the LRA reuse plans include disagreements among the LRA members concerning land reuse, lawsuits, and differing reuse

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ideas of special interest groups. Delays in completing the reuse plan affect completion of the NEPA documents, leading to delays in the deeding of land for final reuse.

Reuse Plan Process. Of 73 responses from the Military Department BRAC management organizations, 52 respondents indicated that the LRA took longer than 12 months to complete their reuse plans and that the average time frame for reuse plan completion was 33 months. Timely completion of the reuse plan would expedite the completion of the disposal and reuse environmental impact statement.

The LRAs modified eight local reuse plans following their first submissions. The average of 33 months to complete reuse plans indicates a problem for the current NEPA BRAC process. LRA slowness in preparing the reuse plan results in amendments to environmental impact statements, which cost more and take more time, and result in further delays of the BRAC land transfer.

Strategies To Reduce the Effect of NEPA on Base Closure

The following four strategies would reduce the cost and time associated with preparing NEPA documents for BRAC actions:

- o a legislative change to exclude NEPA from the BRAC disposal and reuse process,
- o the use of more environmental assessments and categorical exclusions instead of environmental impact statements,
- o the adoption of a relative reuse development approach similar to that of the Army, and
- o the delegation of signature authority to field organizations for BRAC NEPA documents.

Legislative Changes. There are several advantages in the first strategy to make legislative change to the BRAC Act (1990) to exclude NEPA from the BRAC disposal and reuse process. The base transition coordinators (response ratio of 36 to 37) and the LRA (response ratio of 3 to 1) indicated that NEPA has not added value to the BRAC process.

Eliminating the requirement to include NEPA in BRAC actions would save time associated with the in-house or contracted preparation of the NEPA documents. In addition, that approach would eliminate the need to develop NEPA documents for interim leasing. A legislative change would permit land to be turned over to the LRA as soon as the reuse plan was finalized.

At our July 1995 briefing, Office of the Deputy Under Secretary of Defense (Environmental Security) representatives indicated that they did not want to

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pursue that strategy. Representatives indicated that the Military Departments were initiating actions (for example, contract bids) for preparing NEPA documents for the BRAC 1995 installations and stated that pursuing a legislative change for existing BRAC actions would delay deed transfers and would waste time and funds. However, a legislative change would be beneficial to DoD if the possibility of future BRACs becomes a reality.

Environmental Stewardship Without NEPA Requirements. DoD is viewed as a leader among Federal agencies in the area of environmental quality, especially in its implementation of the NEPA process. Proof of that leadership is the presentation of the 1992 Council on Environmental Quality Federal Environmental Quality award for excellence to the Air Force. The Air Force developed an environmental impact analysis process that instilled an environmental ethic throughout the Air Force. The DoD would need to maintain the quality of its environmental initiatives while seeking legislative relief from Federal NEPA requirements.

Legislative Change Approach. A legislative change should be one that realigns the environmental impact analysis responsibility to the organization that prepares the reuse plan. That approach should have five key elements.

- o Permit states with their own environmental laws to conduct environmental analyses (suggested by the base transition coordinator and LRA).

- o Provide a grant, in states that do not have their own NEPA laws, to the LRAs to do environmental impact analyses concurrent with developing the reuse plans.

- o Provide all base environmental documentation to the LRA to assist in NEPA-like analyses.

- o Advise the LRA of the location of all environmentally sensitive areas (wetlands, historic landmarks, and cultural and archeological sites) and the statutes requiring actions in those areas.

- o Achieve public involvement and input through participation with the DoD Restoration Advisory Board or through commenting on the local reuse plan required by section 2905(b)(7)(III) of Public Law 101-510, which is the Defense Base Closure and Realignment Act of 1990.

Any legislative change should encourage more involvement of the states and the LRA in the preparation of the environmental analysis for base reuse. The environmental analysis can be accomplished more efficiently if the LRAs that develop the reuse plans and the alternative reuses are also responsible for doing the environmental impact analyses. In addition, LRAs stated that their states are still required to accomplish an environmental analysis after DoD completes its NEPA study. Air Force representatives told us that the California regulatory agencies are now ready to accept a DoD NEPA document to fulfill their state environmental impact analysis which avoids costs by eliminating the requirement to perform more than one NEPA document.

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Environmental Assessments and Categorical Exclusions. The second strategy, to use more environmental assessments and categorical exclusions for the disposal of BRAC land, could reduce the time and money spent preparing environmental impact statements. An environmental assessment and categorical exclusion are fully defined in Appendix B. The preparation of an environmental assessment is normally quicker and less costly than an environmental impact statement because the level of preparation and public involvement for an environmental assessment is on a much smaller scale than the same requirements for an environmental impact statement.

Level of Preparation. Environmental assessments are normally shorter and contain analyses that focus only on determining the significance of the environmental impact. NEPA regulations encourage environmental assessments to be concise. An environmental assessment serves to:

- o provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impacts and

- o aid a Federal agency's compliance with NEPA when no environmental impact statement is necessary.

The primary risk of using an environmental assessment to address BRAC land disposals is the increased potential for environmental legal challenges. Normally, an environmental assessment does not provide the level of detail and analysis included in an environmental impact statement. Environmental assessments are usually designed to include enough information to make an adequate decision concerning the significance of the effects. The lack of detailed information supporting the selected alternative and the determination of no significant impact may cause some reviewers to question the soundness of decisions made and could lead to environmental legal challenges if the reviewers believe that their concerns are not adequately satisfied.

Public Involvement. The DoD could save time by preparing environmental assessments because the level of detail for public involvement and analysis required by the NEPA regulations for an environmental assessment is not as extensive as an environmental impact statement. For example, an environmental impact statement requires extensive public involvement and detailed analysis, while an environmental assessment requires a short public comment period on its proposed finding of no significant impact.

Use of Environmental Assessments for BRACs. The DoD prepared environmental assessments at the following five BRAC closure installations: Newark Air Force Base, Ohio; Lexington Bluegrass Army Depot, Kentucky; Moffet Naval Air Station, California; Fort Sheridan, Illinois; and Cameron Station, Virginia. The costs for preparing the environmental assessments ranged from \$47,000 to \$500,000, and completion time ranged from 7 to 44 months, whereas the average environmental impact statement costs \$900,000. By preparing environmental assessments rather than environmental impact statement documents for disposal and reuse decisions at closure bases, the DoD could reduce costs.

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The DoD successfully used environmental assessments to support BRAC disposal and reuse decisions. The base transition coordinator at Newark Air Force Base reported that "Being able to do an environmental assessment rather than a full blown environmental impact statement has allowed us to stay on track with our intended reuse strategy, which is to privatize in place. Otherwise, the process would incur serious delays." The use of environmental assessments for disposal and reuse decisions at the five organizations was successful.

Recent data provided by the Army and the DoD Base Transition Office showed that they both attempted to use more environmental assessment documents for the 1995 BRAC. The DoD Base Transition Office is also encouraging its base transition coordinators to promote the use of environmental assessments wherever possible. The Army indicated that it was attempting to use environmental assessments instead of environmental impact statements for about half of its 1995 BRAC installations. Use of environmental assessments for those installations could help the Army avoid costs. The use of an environmental assessment is especially appropriate for BRAC 1995 land disposal and reuse decisions because many small installations should be amenable to a lesser degree of environmental analysis, that is, environmental assessments.

Use of Categorical Exclusions. DoD should use categorical exclusions similar to those used by the General Services Administration for certain types of property disposal. Categorical exclusions reduce document completion time frames and speed turnover of base property. The NEPA categorical exclusions are usually 1- to 2-page documents that do not require large amounts of time, money, and coordination to prepare. Since the enactment of NEPA, using environmental assessments and categorical exclusions to address the potential effects of Federal actions continues to be a standard practice.

General Services Administration. The General Services Administration serves as the real estate agent for the Federal Government, except for BRAC property, for which DoD is the agent. Representatives from the Real Property Disposal Office of the General Services Administration stated that they use categorical exclusions and environmental assessments to address about 75 percent of the General Services Administration land disposal and leasing actions. Representatives stated that General Services Administration disposals are usually on a smaller scale than the DoD BRAC disposals. The General Services Administration uses NEPA categorical exclusions for specific scenarios concerning leasing and disposal actions. The General Services Administration takes responsibility for leasing or disposal actions in accordance with NEPA, but believes that addressing reuse is not necessary. The General Services Administration representatives believed that reuse is not a Federal action because they have no control over how a person who has been deeded property would reuse the building or land. However, the General Services Administration representatives stated that they generally address logical types of reuse within their land disposal documents.

General Services Administration representatives suggested that the DoD pursue more categorical exclusions for disposal and interim reuse and that the Military Departments prepare more environmental assessments instead of detailed

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environmental impact statements to address disposal and reuse issues. Representatives believed that such actions would provide more information to the LRAs during the early stages of reuse plan development, and would reduce the number of conflicts of reuse in meeting natural resource and environmental compliance requirements. The representatives also indicated that the use of more environmental assessments and categorical exclusions would reduce NEPA document preparation time and cost, and make the land available sooner for reuse.

Relative Reuse Development. The third strategy, a relative reuse development approach, is the strategy that the Army uses to generate NEPA documents for BRAC installations. That approach focuses on identifying a range of reuse alternatives rather than specific alternatives. For example, a NEPA document could be prepared for an industrial area with many different industrial processes, eliminating the need for additional NEPA when a process is changed. As a result, the core NEPA document is not on a specific reuse approach that could render the document useless if the desired reuse changes. This strategy also eliminates the requirement for waiting for the LRA to complete a reuse plan that identifies a specific desired reuse. A primary benefit is more timely completion of NEPA documents. This strategy also meets the intent of the President's Five-Part Plan by accelerating the process for getting the land to the LRAs for reuse and the creation of job opportunities.

The Army approach also reduces the risks of environmental legal challenges because it addresses a broader scope of potential reuse scenarios. The broader scope of reuse scenarios helps to answer possible questions during the NEPA document review process concerning the various types of reuse. Army personnel indicated that the procedure received the endorsement of the EPA and the President's Council on Environmental Quality, thereby reducing the potential for unfavorable comments during the Federal agency review process of NEPA BRAC closure documents. Army personnel also stated that they estimated the process will reduce costs by about \$150,000 to \$200,000 per environmental impact statement.

Signature Authority. The fourth strategy that DoD could use to further reduce the time to complete an environmental impact statement or environmental assessment is to delegate signature authority to the installation or to lower levels. In most instances, Military Department NEPA guidance requires that environmental impact statements with a record of decision and environmental assessments with a finding of no significant impact documents be forwarded to major commands or department headquarters for signature or to selected offices (for example, legal) for special review and approval. Environmental personnel told us that several months could be eliminated if signature authority were delegated to lower levels, which would encourage quick decision making. Delegating decision authority is also a requirement of the President's Five-Part Plan for revitalizing base closure communities. Base transition coordinators stated that the delegation of signature authority to lower levels was not occurring.

Military Department BRAC Management Organizations

BRAC Acceleration. Military Department BRAC management organizations, base transition coordinators, and the LRAs stated that rapid NEPA document completion would speed the deeding of land to the local community. This will increase the potential for local economic growth through beneficial reuse of lands.

Suggestions Regarding the NEPA BRAC Process. A few of the suggestions from the Military Department BRAC management organizations follow.

- o Delegate signature authority from the headquarters to lower level organizations.
- o Allow commands to have review and approval authority for BRAC environmental assessment documents.
- o Reduce required environmental impact statement coordination at the headquarters level in the Pentagon.
- o Reduce or eliminate headquarters policy and oversight for interim lease NEPA documents.
- o Provide written policy rather than oral policy.
- o Require the NEPA document to address only disposal of BRAC properties, not the reuse of BRAC properties.

The first four suggestions contain a recurring theme: review, approval, and signature are required by the Military Department headquarters. Those requirements are time-consuming and indicate a lack of delegation. The assistant secretaries of the Military Departments sign all records of decision that accompany disposal and reuse environmental impact statements. That level is higher than necessary for the review and approval of all environmental documents. One questionnaire respondent reported that 30 different offices at that Military Department's headquarters in the Pentagon are required to review disposal and reuse documents before signature.

The President's Five-Part Plan encourages DoD to delegate decision authority to the lower level offices. The Military Departments have not delegated decision authority for the NEPA BRAC process. One of the Military Department headquarters staff said that the reason for not delegating authority to subordinate offices is that the turnover of a base to local authorities is a major decision that must be made at the assistant secretary level. That statement may be true with larger bases and where controversy exists or could occur. However, the Military Departments could delegate signature authority to the BRAC closure installations at bases for which they do not anticipate a problem.

Impact of the National Environmental Policy Act on Defense Base Realignment and Closure Actions

Summary

NEPA documents for BRAC land disposal are costly and time-consuming to prepare, are of limited value to the majority of LRAs, and do not identify covenants for deed restrictions that had not been previously identified and required by other environmental laws. Use of categorical exclusions, environmental assessments, relative reuse development approach, and signature authority are strategies that can speed turnover of that property to the LRA.

Recommendations for Corrective Action

We recommend that the Deputy Under Secretary of Defense (Environmental Security):

1. Initiate a legislative change for all future Defense base realignment and closure laws to exclude the base disposal and reuse process from the National Environmental Policy Act analysis, or:
2. Direct the Military Departments to use more environmental assessments and categorical exclusions instead of environmental impact statements to save time and money.
3. Direct the Navy and the Air Force to adopt a relative reuse development approach, similar to that of the Army, for generating National Environmental Policy Act documents for land disposal.
4. Direct the Military Departments to issue policy that delegates signature authority for National Environmental Policy Act documents for base closure actions to organizations below the level of major commands.

Management Comments Required

The Deputy Under Secretary of Defense (Environmental Security) did not respond to the draft of this report in time for comments to be incorporated into the final report.

Part II - Additional Information

Appendix A. Evaluation Process

Scope

The scope of this evaluation included all 1988, 1991, and 1993 base closure installations having land available for disposal with ongoing or completed NEPA documents. Documents addressing realignment installations were not considered in this report due to time constraints. We reviewed input from 29 active local redevelopment authorities (LRA), 59 base transition coordinators, and 73 Military Department BRAC management organizations associated with closing installations.

We gathered data for this review from 30 reports, 13 congressional hearing documents, and 46 newspaper and magazine articles discussing the NEPA BRAC process for land disposal. We reviewed 6 NEPA documents for content. We reviewed additional information from the Environmental Protection Agency, the Council on Environmental Quality, and the General Services Administration, who also have a major role in land disposal and interim leasing documentation.

Methodology

We used a variety of computer database programs to conduct the search for sources of background materials. Time restrictions did not permit us to determine the reliability of each data base used, but the results of the evaluation were not affected by not determining reliability.

We reviewed policy and guidance from various representatives of the Assistant Secretary of Defense (Economic Security) (now the Office of the Deputy Under Secretary of Defense [Industrial Affairs and Installations]), the Office of the Deputy Under Secretary of Defense (Environmental Security), and those DoD Components involved in the base closure process.

Our meetings with DoD environmental and BRAC management officials identified land disposal and reuse, interim leases, and the value of NEPA in the BRAC processes as the primary NEPA BRAC program concerns. Management stated that various DoD organizations and the Military Departments responsible for the NEPA and BRAC programs had voiced those concerns. Information obtained from those sources became the basis for developing the two questionnaires that we used to acquire responses from base closure installations and LRAs. We developed the questionnaires in coordination with the Office of the Deputy Under Secretary of Defense (Environmental Security), the Office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations), and Military Department NEPA BRAC experts. We distributed the questionnaires after a series of review meetings and after we had consensus on the questionnaire contents. One questionnaire was designed to be completed by the NEPA BRAC Military Department management organizations and the base

transition coordinators. The other questionnaire was designed to obtain the LRA perception of the effect of the NEPA process on their efforts to obtain clients for interim leases and final reuse.

Evaluation Period and Standards. This program evaluation was performed from March 1995 through August 1996 in accordance with standards implemented by the Inspector General, DoD. The evaluation did not rely on computer-processed data or statistical sampling procedures.

Summary of Prior Audits and Other Reviews. We did not identify any audits, studies, or evaluations during the last 5 years that addressed the relationship of NEPA and BRAC.

Contacts During the Evaluation. We visited or contacted individuals and organizations within the DoD and other Federal agencies, LRAs, and private industry. Further details are available on request.

Appendix B. Requirements of the National Environmental Policy Act, the Defense Base Closure and Realignment Act, and the President's Five-Part Plan

NEPA Requirements Applicable to BRAC

In 1970, Congress enacted the National Environmental Policy Act (NEPA). Section 102(2)(C) of the act requires Federal agencies to prepare specific documents that address the impacts of all proposed Federal actions.

NEPA Requirements for Levels of Analysis and Documentation. Provisions of NEPA implementing regulations of the President's Council on Environmental Quality contain criteria for selecting one of three levels of analysis and documentation that correspond to the impact of the proposed action. The three levels of analysis and an explanation of each follow.

Categorical Exclusion. A categorical exclusion is a category of action or actions that do not individually or cumulatively have a significant effect on the human environment. NEPA makes allowances to exclude categories of actions from further environmental analysis because those actions have been determined to pose little or no threat to the environment. Those categories are identified as categorical exclusions.

Environmental Assessment. An environmental assessment is a written document that defines the extent of the environmental impacts of a Federal action and determines whether the impacts of that action are significant to the environment. Environmental assessment documents are intended to be brief and to provide sufficient data to support the decision making process. If the environmental assessment determines that the impacts of the action are not significant, then a "finding of no significant impact" is prepared.

Environmental Impact Statement. An environmental impact statement is a complex document that discusses all environmental aspects associated with the proposed Federal action and provides extensive data about alternatives to carry out that proposed action. The environmental impact statement provides management sufficient data to make an environmentally conscious decision about the proposed action.

Additional NEPA Requirements. When addressing the impacts of the proposed actions in environmental assessment and environmental impact statement documents, NEPA stipulates that the following must take place.

- o Before decisions are made and Federal actions are executed, environmental information about the proposed action must be made available to the public and the decision maker.

Appendix B. Requirements of the National Environmental Policy Act, the Defense Base Closure and Realignment Act, and the President's Five-Part Plan

- o A detailed statement on the environmental impact of major Federal actions that significantly affect the environment should be included in every recommendation or report on proposals for legislation.

- o The identification, assessment, and consideration of reasonable alternatives to proposed actions that would avoid or minimize adverse environmental effects should be included in the analysis.

- o Agency officials should make decisions based on an understanding of environmental effects and take actions that protect, restore, and enhance the environment.

BRAC Act of 1990

The principal components of the BRAC Act of 1990 applicable to NEPA include the following.

- o NEPA is not applicable to the closure decision.

- o NEPA applies to actions during the property disposal process.

- o NEPA applies to the relocation of functions from a military installation being closed or realigned to another military installation.

The President's Five-Part Plan

The President's Five-Part Plan concerning NEPA states the following.

- o NEPA documents will be completed within 12 months of the date the community involved submits its final reuse plan.

- o Community reuse plans will be the preferred alternative and basis for the proposed action and alternatives addressed in the NEPA analysis.

- o NEPA documents will be used for both closure and reuse.

Appendix C. Report Distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition and Technology
Director, Defense Logistics Studies Information Exchange
Under Secretary of Defense (Comptroller)
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)
Deputy Under Secretary of Defense (Environmental Security)
Deputy Under Secretary of Defense (Industrial Affairs and Installations)
Assistant to the Secretary of Defense (Public Affairs)

Department of the Army

Assistant Secretary of the Army (Financial Management and Comptroller)
Assistant Secretary of the Army (Installations, Logistics, and Environment)
Assistant Chief of Staff for Installation Management (Base Realignment and Closure Office)
Auditor General, Department of the Army

Department of the Navy

Commandant of the Marine Corps
Deputy Chief of Staff for Installations and Logistics
Assistant Secretary of the Navy (Financial Management and Comptroller)
Assistant Secretary of the Navy (Installations and Environment)
Chief of Naval Operations-Logistics (Facility and Engineering Division-N44)
Auditor General, Department of the Navy
Director, Base Closure Office, Naval Facilities Engineering Command

Department of the Air Force

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Director, Air Force Base Conversion Agency

Other Defense Organizations

Director, Defense Contract Audit Agency
Director, Defense Logistics Agency
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Inspector General, National Security Agency
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Senate Committee on Armed Services
Senate Committee on Environment and Public Works
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on National Security, Committee on Appropriations
House Committee on Commerce
House Subcommittee on Health and Environment
House Committee on Government Reform and Oversight
House Subcommittee on National Security, International Affairs, and Criminal Justice,
Committee on Government Reform and Oversight
House Committee on National Security
House Committee on Science
House Subcommittee on Energy and Environment

Audit Team Members

This report was prepared by the Contract Management Directorate, Office of the Assistant Inspector General for Auditing, DoD.

Paul J. Granetto
William C. Gallagher
Michael R. Herbaugh
Harold E. Lindenhofen
Maryjane Jackson
Catherine Argubright
Ana Myrie
Nancy C. Cipolla

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